

REMARKS

In the December 16, 2008 Office Action, claims 1-5, 7 and 12-16 stand rejected in view of prior art. On the other hand, claims 6 and 8-11 were indicated as containing allowable subject matter. Applicant wishes to thank the Examiner for this indication of allowable subject matter and the thorough examination of this application. No other objections or rejections were made in the Office Action.

Status of Claims and Amendments

In response to the December 16, 2008 Office Action, Applicant has perfected priority to obviate the rejections. None of the claims are amended by the current Amendment. Thus, claims 1-16 are pending, with claims 1 and 14 being the only independent claims. Reexamination and reconsideration of the pending claims are respectfully requested in view of the following comments.

Rejections - 35 U.S.C. § 102

On page 2 of the Office Action, claims 1-5, 7 and 12-16 stand rejected under 35 U.S.C. §102(e) as being anticipated by Japanese Patent Publication 2005-036998 (Kobayashi et al.). In response, Applicant respectfully traverses this rejection as explained below.

First, Applicant notes that Japanese Patent Publication 2005-036998 (Kobayashi et al.) cannot qualify as prior art under 35 U.S.C. §102(e) since this is not a U.S. patent publication. See MPEP §706.02.

Second, in the event the Office Action intended to reject claims 1-5, 7 and 12-16 35 U.S.C. §102(a) as being anticipated by Japanese Patent Publication 2005-036998 (Kobayashi

et al.), Applicant is perfecting priority to overcome such a hypothetical rejection, as explained below.

The Kobayashi et al. reference was published *February 10, 2005*. The instant application is a national phase application of PCT/JP2005/006915 filed April 8, 2005, which claims priority to JP 2004-113982. JP 2004-113982 was filed *April 8, 2004*, a certified copy of which was indicated in the Office Action Summary as being received by the USPTO. Applicant has filed herewith a translation of the certified copy of the priority document together with a statement that the translation of the certified copy of the priority document is accurate, in order to perfect the foreign priority claim in the instant application.

Claims 1-12 of the instant application are supported by claims 1-12 of the translation of JP 2004-113982 as well as the written description and drawings of the translation of JP 2004-113982. Applicant believes that claims 13-16 of the instant application are supported by "BEST MODE FOR IMPLEMENTING THE INVENTION" ON PAGES 6-10 of the translation of JP 2004-113982 as well as the remaining written description and drawings of the translation of JP 2004-113982. Thus, Applicant respectfully asserts that these claims 1-16 of the instant application are entitled to the benefit of April 8, 2004 filing date under 35 U.S.C. §§119 and 365. Thus, Applicant respectfully asserts that a potential rejection under 35 U.S.C. §102(a) based on Japanese Patent Publication 2005-036998 (Kobayashi et al.) is obviated.

Based on the above, withdrawal of the prior art rejection of claims 1-5, 7 and 12-16 under 35 U.S.C. §102 based on the Kobayashi et al. publication is respectfully requested, and allowance of claims 1-5, 7 and 12-16 is also respectfully requested.

Allowable Subject Matter

On page 3 of the Office Action, claims 6 and 8-11 were indicated as containing allowable subject matter. Applicant wishes to thank the Examiner for this indication of allowable subject matter and the thorough examination of this application. In response, Applicant has not amended these claims to place them in independent form because, as explained above, claims 1-5, 7 and 12-16 are also believed to be allowable.

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In view of the foregoing amendment and comments, Applicant respectfully asserts that claims 1-16 are now in condition for allowance. Reexamination and reconsideration of the pending claims are respectfully requested.

Respectfully submitted,

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